

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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In the Matter of )

Streamlining the International )  
Section 214 Authorization Process and )  
Tariff Requirements )

IB Docket No. 95-118

**GTE'S REPLY COMMENTS**

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GTE Service Corporation ("GTE"), on behalf of its affiliated domestic telephone operating companies, hereby submits its response to Comments on the Commission's Notice of Proposed Rulemaking, FCC 95-286, released July 17, 1995, in the above-captioned proceeding.

**DISCUSSION**

- I. **The Commission should remove unnecessary, asymmetric regulations imposed on dominant carriers operating in a fully competitive international market.**

The Commission (at ¶11) has appropriately recognized that unnecessary regulation is costly, can interfere with market forces and can have an adverse effect on economic efficiency and consumer welfare. In this proceeding, the Commission seeks to eliminate unnecessary regulatory burdens on international common carriers. GTE supports the Commission's actions in eliminating

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unnecessary regulations, but agrees with AT&T (at 1) that the Commission should take bolder action and remove unnecessary, asymmetric regulations imposed on dominant carriers operating in a fully competitive international market.

The Commission proposes (at ¶15) to allow carriers regulated as dominant on any route, or carriers that have a foreign affiliation, as defined by the rules, to apply for a global Section 214 authority on routes where they are non-dominant. This is definitely a step in the right direction. However, the Commission then takes one step backward by not permitting these applicants to be subject to the same streamlined processing allowed non-dominant carriers. There is no reason whatsoever to subject dominant carriers -- on non-dominant routes -- to different rules than non-dominant carriers. GTE agrees with AT&T (at 3) that "the NPRM's rationale for certain streamlining proposals is equally applicable to dominant, non-affiliated U.S. carriers as to non-dominant U.S. carriers."

The Commission (at ¶17) proposes to reduce the comment period on streamlined applications to 21 days and non-streamlined applications to 28 days. GTE agrees with AT&T (at 12) that all applications should be subject to the same timing intervals. With the reduction in Section 214 applications as a result of the new "global" authority, there will be significantly fewer applications to review. Parties should be able to review both dominant and non-dominant carriers' applications and file petitions to deny if deemed appropriate in 21 days. A 21 day comment period should not be a hardship for any entity. As the Commission

(at ¶47) itself notes, "our experience leads us to conclude that this hardship will rarely, if ever, occur." GTE does not believe that it is necessary to subject dominant carriers to different timing intervals, especially with the reduction in Section 214 applications that will result from the Commission's new global authority.

Further, GTE does not believe that the Commission's justification for a 28 day period for dominant carriers -- ease in calculating the due date -- is sufficient reason to subject them to unnecessary asymmetric regulation. GTE proposes that the Commission subject all carriers -- dominant and non-dominant -- to streamlined processing while still retaining the dominant carrier separate application requirement when applicable. This is truly eliminating unnecessary, asymmetric regulation in a competitive marketplace.

## **II. Pacwest's "fresh look" proposal should be denied.**

In its Comments, GST Pacwest Telecom Hawaii, Inc. ("Pacwest") suggests "that the Commission permit customers with long-term service arrangements to terminate these arrangements upon introduction of new service offerings by competitive service providers." (Pacwest at 2) Pacwest specifically references GTE Hawaiian Tel's interisland fiber optic network in Hawaii and its own application to construct a competing fiber optic submarine cable system linking the Hawaiian islands. Pacwest then makes a self-serving plea to the Commission to allow the IXCs and other customers of GTE Hawaiian Tel a "fresh

look” opportunity to rescind any agreements for services utilizing the local exchange company’s network.

Pacwest’s proposal should be rejected for several reasons. First, Pacwest’s suggestion goes far beyond the scope of the Commission’s proposal to streamline the Section 214 authorization process for international carriers. Pacwest seeks through its Comments to impose additional burdens on a local exchange carrier’s operation of its intrastate facilities.<sup>1</sup> Pacwest should not be permitted to impose unrelated issues into this rulemaking proceeding.

Second, Pacwest made the same “fresh look” argument to the Commission over a year ago in a separate filing concerning GTE Hawaiian Tel’s cable landing license.<sup>2</sup> Pacwest asked the Commission to “condition” GTE Hawaiian Tel’s license on its making capacity available to Pacwest on the interisland fiber network on a co-owner or Indefeasible Right of Use ("IRU")

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<sup>1</sup> GTE Hawaiian Tel’s interisland fiber cable network is part of its exchange and exchange access facilities. GTE never filed a Section 214 application with the Commission to operate the interisland cable because it is not an interstate facility. Although GTE filed for a cable landing license with the FCC because of the licensing requirements of the Cable Landing License Act, GTE Hawaiian Tel’s authority to operate the cable comes from the Hawaii Public Utilities Commission, as it does for all exchange and exchange access facilities.

<sup>2</sup> Pacwest “Informal Request for Action,” In the Matter of GTE Hawaiian Telephone Company Incorporated Application for a License to Land and Operate a High Capacity Digital Submarine Cable System Wholly Within the State of Hawaii, Linking the Island of Kauai, Oahu, Maui and Hawaii, File No. S-C-L-93-003, filed August 12, 1994.

basis. Pacwest's request was similarly misplaced in that proceeding.<sup>3</sup> No "fresh look" is necessary. Pacwest not only had the first opportunity to capture the customers which it is arguing should have a "fresh look," but Pacwest also had ample notice going back to 1992 that GTE Hawaiian Tel intended to build an interisland fiber network, and to respond appropriately in the competitive market.

Finally, the agreements between GTE Hawaiian Tel and the IXC's for the provision of services that utilize the interisland fiber contain provisions which allow the IXC to terminate the contract at any time. Even if terminated early, the IXC's can still receive special discounts under those agreements. Some of those agreements were entered into *after* Pacwest's public announcement that it intended to have its own interisland fiber network in place by the end of the year 1996.

In summary, Pacwest's proposal is not relevant to the Commission's proposed rulemaking and is based on factual inaccuracies about services offered by Pacwest on its present microwave system as well as the service

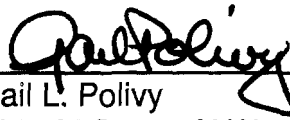
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<sup>3</sup> In addition to pointing out the untimeliness of Pacwest's filing (GTE's application for a cable landing license had been filed in 1992 and its license granted in 1993), GTE also noted that Pacwest was the first carrier with a high speed digital microwave network between the islands. That network is still in place and, according to recent public announcements made by Pacwest, is in the process of being upgraded while its interisland fiber network is under construction. Pacwest's claim that "(a)ll traffic between the Hawaiian islands is currently routed over GTE Hawaiian Telephone Company, Inc.'s ("GTE's) recently-constructed inter-island fiber optic facilities" (Pacwest at 2) is incorrect. Pacwest has an interisland microwave network in place and obtained authority earlier this year from the Hawaii Public Utilities Commission to carry voice as well as data over that network or any other medium. (HPUC Decision and Order No. 13817, Docket No. 94-0119)

arrangements of GTE Hawaiian Tel on its recently installed interisland fiber network. Pacwest's proposal should, therefore, be rejected.

Respectfully submitted,

GTE Service Corporation and its  
affiliated domestic telephone operating  
companies

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### **Certificate of Service**

I, Ann D. Berkowitz, hereby certify that copies of the foregoing "Reply Comments of GTE" have been mailed by first class United States mail, postage prepaid, on the 7th day of September, 1995 to all parties on the attached list.

  
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